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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,840	09/22/2003	Oliver Ahn	REVOL P-4	1022

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LACKENBACH SIEGEL  
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SCARSDALE, NY 10583

EXAMINER
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MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/667,840

**Applicant(s)**

AHN, OLIVER

**Examiner**

Katherine M Moran

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-46 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8,10,12-19,22,25 and 27-31 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,7,9,11,20,21,23,24,26,32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outside of the crown portion at one or more side segments with at least one secondary decorative symbol, letter, word, badge, emblem, or logo must be shown or the features canceled from claim 46. No new matter should be entered. Please note that each type of secondary attachment must be shown.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: nylon is not a trademarked term and should be capitalized with a trademark symbol in the specification.

Appropriate correction is required.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: “a secondary decorative symbol, letter, word, badge, emblem, or logo”, and “whereby the crown portion is a cylindrical shape comprising a lower opening and an upper opening”.

***Claim Objections***

4. Claims 5 and 37 are objected to because of the following informalities: delete the trademarked name "Nylon". It is acceptable to use "nylon". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 recites "the lower peripheral edge". There is no antecedent basis for this limitation in the claim. Claim 25 is indefinite because it is unclear how the first member can be continuous and unbroken and extending completely around the inner side of the crown portion, whereas claim 16 recites that the crown portion includes an adjustable assembly adapted to adjust the circumferential size of the crown portion. Further, the drawings illustrate a discontinuous crown portion in Figures 5A, 5B, and 5C.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1, 2, 8, 10, 15-19, 25, 27, 28, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis (U.S. 6,263,508). Davis '508 discloses the invention as claimed. Davis teaches a hat 10 comprising a crown portion 11 adapted to cover a portion of a wearer's head, the crown portion comprising a lower periphery, an outside, and an inside, a horizontally oriented brim 12, a headband 13 disposed radially inwardly from the inside of the crown portion, and a sliding assembly disposed between the inside of the crown portion and the headband 13. The sliding assembly comprises a first member 17 secured along the inside of the crown portion, with a portion of the first member recessed from the lower periphery, and a second member 16 slidably attached to the first member and comprising an extension (not labeled in Figure 3, or 12a in Figure 3a) secured to the brim whereby the user may rotate the brim relative to the crown portion a full 360 degrees. The first member 17 is a T-shaped track and the second member 16 is a C-shaped channel. Column 3, lines 47-50 recite that the first member extends completely around the inner side of the crown portion. Since both the first and second members are formed from flexible polyvinyl chloride, it stands to reason that the second member of the sliding assembly could be removed from the first member by manipulating the ends of the respective members. Column 4, lines 3-12 recite that the invention allows for removal of the two members from each other. Regarding claim 15, a circumferential intermediate band 14 is disposed between the inside of the crown portion and the headband, the band having a bottom edge attached to the lower periphery and a top edge attached to the headband 13, wherein the sliding assembly is disposed between the headband and the circumferential band, with the first member secured along the circumferential band recessed from the bottom edge. With regard to claim 18, column 3, lines 56-58 recite that the cap may be formed of a known adjustable type having

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plastic or leather straps. It stands to reason that these straps would be interlocking in some form in order to form an adjustable means. With regard to claim 47, Davis teaches headwear 10 comprising a crown 11 having a substantially circumferential body to fit on a wearer's head, at least one bill or brim 12 extending substantially laterally away from the crown body and the wearer's head, and at least one slide means for connection of the bill or brim to the crown and for rotation of the bill or brim relative to the crown, the improvement in which the slide means comprises a first subassembly attached to the periphery of the crown body and extending at least a substantial portion around the circumference of the crown body, and a second subassembly attached to the bill or brim adjacent the crown body, the first and second subassemblies each having a channel member 16,17 with means for interlocking and slidable engagement of the channel members relative to each other, the first subassembly comprising a headband 13 having upper and lower sides and an intermediate web 14 having upper and lower sides with the upper sides of both the headband and the intermediate web attached to each other and the lower side of the intermediate web attached to the periphery of the crown body, the channel member of the first subassembly positioned between the headband and the intermediate web such that the channel members do not touch the wearer's head.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis '508 in view of Carr (U.S. 5,113,529). Davis discloses the invention substantially as claimed. However, Davis does not teach first and second members made of nylon. Carr '529 teaches headwear 1 formed from nylon (col.2, lines 65-67). Nylon is known for its relatively slick or frictionless properties. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the first and second members of Davis from nylon because it is known as a frictionless material and would aid in the smooth sliding motion between the two members.

11. Claims 12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis '508. Davis discloses the invention substantially as claimed and imagines any number of crown and bill shapes. However, Davis does not teach a crown portion comprising a lower opening and an upper opening. It is common in the art to form headwear with upper openings to allow for ventilation of the wearer's head. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the crown of Davis with an upper opening so provide a more comfortable fit.

12. Claims 13 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis '508 in view of Casale (U.S. 5,471,684). Davis discloses the invention substantially as claimed. However, Davis does not teach a primary decorative symbol, letter, word, badge, emblem, or logo on the outside of the crown portion at the front section. Casale '684 teaches a crown portion 12 with a logo or emblem P at the front of the crown. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Davis' crown

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with a logo or emblem at a front portion because this is a prime location for displaying one's allegiances.

13. Claims 14 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis '508 in view of Casale as applied to claim 13 above, and further in view of Loeffelholz (U.S. 6,175,963). Davis discloses the invention substantially as claimed. However, Davis does not teach a crown portion with a crown side segment including at least one secondary decorative symbol, letter, word, badge, emblem, or logo. Loeffelholz '963 teaches a crown 13 with decorative emblems or badges 27 at side portions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide secondary decorative attachments at side crown portions to provide additional statements or decorative embellishments to the crown.

#### *Allowable Subject Matter*

14. Claims 33-46 are allowed (see objections to claims 37 and 46).
15. Claims 3, 4, 6, 7, 9, 11, 20, 21, 23, 24, 26, and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### *Conclusion*

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harwood (U.S. 6,473,907) teaches relevant prior art.



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Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official and after final fax number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

March 10, 2004

A handwritten signature in black ink, appearing to read 'K Moran', followed by a horizontal line extending to the right.

Katherine Moran

Primary Examiner, AU 3765